



LAW OFFICES OF ERIC FRANZ, P.L.L.C.

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February 11, 2013

HON. John Gleeson  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *United States v. Burton Dennison*, 11 Cr. 747 (S-1)(JG)

Dear Judge Gleeson:

I represent Mr. Burton Dennison in the above referenced matter pursuant to the Criminal Justice Act. Mr. Dennison is scheduled to be sentenced by Your Honor, this Friday, February 15, 2013, at 2:00 p.m. Unfortunately, as detailed below, Mr. Dennison, has passed away, and will therefore not be present at this Friday's scheduled sentencing. For the reasons that follow, we will respectfully request that the Court Order that this pending case be dismissed against Mr. Dennison. **I have spoken with AUSA Orenstein, and she consents to the instant request.**

On November 30, 2011 Mr. Dennison pled guilty pursuant to a cooperation agreement and following his guilty plea he continued to cooperate with the government. Unfortunately, Mr. Dennison's worst fears manifested themselves in his being gunned down and murdered on or about January 13, 2013. Mr. Dennison was officially pronounced deceased on January 15, 2013, as reflected in the attached death certificate. For the reasons that follow, I respectfully request that the above referenced indictment against Mr. Dennison be dismissed.

An indictment against the defendant should be dismissed following the death of the defendant, if the conviction is not final. Thus, even if the defendant was convicted, if he had not exhausted the direct appeal process, dismissal should be granted. *See United States v. Floyd*, 496 F.2d 982, 984 n.2 (2<sup>nd</sup> Cir. 1974). In the Second Circuit, if the appeal is pending, the Court of Appeals will vacate the "judgment of conviction and remand with instructions to dismiss the indictment." *United States v. Mollica*, 849 F.2d 723, 726.

In the instant matter, while Mr. Dennison did plead guilty, he has not yet been sentenced by the court, and thus he has not even had the opportunity to appeal his conviction to the Second

Circuit. Since his conviction is not final, I respectfully submit that the pending Indictment against Mr. Dennison should be dismissed based on the reasoning of the above referenced cases.

Furthermore, should the Court grant this request, I respectfully request that Mr. Dennison's belongings which were seized upon his arrest, as well as his passport (which is in the custody of pre-trial services) be released to his wife, Seemattie Singh.

Should the court require further briefing on this issue I will be glad to do so.

I thank you for your consideration of this request.

Respectfully Submitted,

  
ERIC FRANZ

cc: AUSA Karin Orenstein  
PTSO Louis Calvi

# THE CITY OF NEW YORK

## VITAL RECORDS CERTIFICATE

### DEATH TRANSCRIPT

DATE FILED THE CITY OF NEW YORK - DEPARTMENT OF HEALTH AND MENTAL HYGIENE

NEW YORK CITY  
DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE  
JANUARY 18, 2013 05:38 PM

### CERTIFICATE OF DEATH

Certificate No. 156-13-002660

1. DECEDENT'S LEGAL NAME Burton Dennison  
(First, Middle, Last)

Place of Death	2a. New York City	2b. Borough <b>Brooklyn</b>	2c. Type of Place 1 <input checked="" type="checkbox"/> Hospital Inpatient 2 <input type="checkbox"/> Emergency Dept./Outpatient 3 <input type="checkbox"/> Dead on Arrival 4 <input type="checkbox"/> Nursing Home/Long Term Care Facility 5 <input type="checkbox"/> Hospice Facility 6 <input type="checkbox"/> Decedent's Residence 7 <input type="checkbox"/> Other Specify _____	2d. Any Hospice care in last 30 days 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input checked="" type="checkbox"/> Unknown	2e. Name of hospital or other facility (if not facility, street address) <b>Kings County Hospital</b>
	Date and Time of Death or Found Dead 3a. (Month) <b>January</b> (Day) <b>15</b> (Year-yyyy) <b>2013</b> 3b. Time <b>01:01</b> <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM 4. Sex <b>Male</b> 5. OCME Case No. <b>K13000342 /</b>				
MEDICAL CERTIFICATE OF DEATH (To be filled in by the OCME)	8. Cause of Death a. Immediate cause <b>Gunshot Wound Of Head And Left Lower Extremity.</b> b. Due to or as a consequence of *** c. Due to or as a consequence of *** PART II Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. Include operation information. ***				
	7a. Injury Date (mm dd yyyy) <b>01 13 2013</b> 7b. Time <b>03:20</b> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM 7c. At Work <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 7d. Place of Injury - At home, factory, street, etc. <b>Car</b> 7e. Location <b>C/O Glenwood Road and E. 46 Street, Brooklyn, New York 11234</b>				
	7f. How Injury Occurred <b>Shot</b>				
	7g. If Transportation Injury Specify <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other Specify _____				
PERSONAL PARTICULARS (To be filled in by Funeral Director or, in case of City Burial, by OCME)	8. Manner of Death <input type="checkbox"/> Pending further study <input checked="" type="checkbox"/> Natural <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Undetermined				
	9. Autopsy <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Autopsy Pursuant to Law <input type="checkbox"/> No Autopsy				
	10. On the basis of examination and/or investigation, in my opinion, death occurred due to the causes and manner as stated. Certifier Signature <i>Frederic Persechino</i> D.O. Date <b>JAN-18-2013</b> Certifier Name (Print) <b>Frederic Persechino</b> Medical Examiner (Medical Investigator) (Deputy Chief) (Chief) (Medical Examiner)				
	11a. Usual Residence State <b>New York</b> 11b. County <b>Queens</b> 11c. City or Town <b>South Ozone Park</b> 11d. Street and Number <b>130-44 128th Street</b> Apt. No. <b>11420</b> ZIP Code <b>11420</b> 11e. Joske City Limits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	12. Date of Birth (Month) (Day) (Year-yyyy) <b>November 26 1968</b> 13. Age at last birthday (years) <b>44</b> 14. Social Security No. <b>052-68-5719</b>				
	15a. Usual Occupation (Type of work done during most of working life) <b>Copy Operator</b> 15b. Kind of business or industry <b>Acro Photo</b> 16. Aliases or AKAs <b>Burton Andre Dennison</b>				
	17. Birthplace (City & State or Foreign Country) <b>Demerara, Guyana</b> 18. Education (Check the box that best describes the highest degree or level of school completed at the time of death) 1 <input type="checkbox"/> 8th grade or less; none 2 <input type="checkbox"/> 9th - 11th grade; no diploma 3 <input checked="" type="checkbox"/> High school graduate or GED 4 <input type="checkbox"/> Some college credit, but no degree 5 <input type="checkbox"/> Associate degree (e.g., AA, AS) 6 <input type="checkbox"/> Bachelor's degree (e.g., BA, BS) 7 <input type="checkbox"/> Master's degree (e.g., MA, MS, MEng, MEd, MSc, MBA) 8 <input type="checkbox"/> Doctorate (e.g., PhD, EdD) or Professional degree (e.g., MD, DDS, DVM, LLB, JD)				
	19. Ever in U.S. Armed Forces? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 20. Marital Partnership Status at time of death 1 <input checked="" type="checkbox"/> Married 2 <input type="checkbox"/> Domestic Partnership 3 <input type="checkbox"/> Divorced 4 <input type="checkbox"/> Married, but separated 5 <input type="checkbox"/> Never Married 6 <input type="checkbox"/> Widowed 7 <input type="checkbox"/> Other, Specify _____ 8 <input type="checkbox"/> Unknown				
	21. Surviving Spouse's/Partner's Name (if wife, name prior to first marriage) (First, Middle, Last) <b>Seemattie Singh</b>				
	22. Father's Name (First, Middle, Last) <b>Morgan Dennison</b> 23. Mother's Maiden Name (Prior to first marriage) (First, Middle, Last) <b>Lauren Isaacs</b>				
24a. Informant's Name <b>Seemattie Dennison</b> 24b. Relationship to Decedent <b>Spouse</b> 24c. Address (Street and Number) Apt. No. City & State ZIP Code <b>130-44 128th Street, South Ozone Park, New York 11420</b>					
25a. Method of Disposition 1 <input checked="" type="checkbox"/> Burial 2 <input type="checkbox"/> Cremation 3 <input type="checkbox"/> Entombment 4 <input type="checkbox"/> City Cemetery 5 <input type="checkbox"/> Other Specify _____ 25b. Place of Disposition (Name of cemetery, crematory, other place) <b>Cypress Hills Cemetery</b>					
25c. Location of Disposition (City & State or Foreign Country) <b>Brooklyn, New York</b> 25d. Date of Disposition mm dd yyyy <b>01 25 2013</b>					
26a. Funeral Establishment <b>Caribe Funeral Home</b> 26b. Address (Street and Number) City & State ZIP Code <b>1922 Utica Avenue, Brooklyn, New York 11234</b>					

Disposition-Method of Disposition - formerly Cremation; Disposition-Date of Disposition - formerly JAN-28-2013; Disposition-Place Name - formerly Rosemount Memorial Park; Disposition-Place City - formerly Elizabeth; Disposition-Place State - formerly New Jersey; approved by Deputy City Registrar W. Haynes on Jan-23-2013;

VR 16 (Rev. 01/09)

This is to certify that the foregoing is a true copy of a record on file in the Department of Health and Mental Hygiene. The Department of Health and Mental Hygiene does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

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DATE ISSUED **January 28, 2013** Order No. **20130119207**

*Steven P. Schwartz*  
Steven P. Schwartz, Ph.D., City Registrar



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE